<u>Unite</u>	ed States Patent .	and Trademark Office	UNITED STATES DEPARTM United States Patent and T Address: COMMISSIONER OF P/ Washington, D.C. 20231 www.uspte.gov	rademark Office ATENTS AND TRADEMARK
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,583	05/03/2001	Wolfgang Matthes	A-2820	8707
7590 12/10/2002 LERNER AND GREENBERG, P.A. Post Office Box 2480 Hollywood, FL 33022-2480			EXAMINER	
			PRONE, JASON D	
			ART UNIT	PAPER NUMBER
			3724	
			DATE MAILED: 12/10/2002	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)
	09/848,583	MATTHES ET AL.
Office Action Summ	ary Examiner	Art Unit
	Jason Prone	3724
The MAILING DATE of this co Period for Reply	ommunication appears on the cover sheet w	vith the correspondence address
A SHORTENED STATUTORY PER THE MAILING DATE OF THIS CON - Extensions of time may be available under the p after SIX (6) MONTHS from the mailing date of - If the period for reply specified above is less that - If NO period for reply is specified above, the mat - Failure to reply within the set or extended period	provisions of 37 CFR 1.136(a). In no event, however, may a this communication. In thirty (30) days, a reply within the statutory minimum of thi iximum statutory period will apply and will expire SIX (6) MO d for reply will, by statute, cause the application to become A months after the mailing date of this communication, even if	reply be timely filed rty (30) days will be considered timely. NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).
1) Responsive to communication	on(s) filed on	
2a) This action is <b>FINAL</b> .	2b) This action is non-final.	
	ondition for allowance except for formal ma e practice under <i>Ex parte Quayle</i> , 1935 C	
4) Claim(s) <u>1-13</u> is/are pending	in the application.	
4a) Of the above claim(s)	is/are withdrawn from consideration.	
5) Claim(s) is/are allowed	i.	
6) Claim(s) is/are rejected	d.	
7) Claim(s) is/are objecte	d to.	
8)⊠ Claim(s) <u>1-13</u> are subject to r Application Papers	estriction and/or election requirement.	
9) The specification is objected to	b by the Examiner.	
10) The drawing(s) filed on	is/are: a) accepted or b) objected to by	the Examiner.
Applicant may not request that	any objection to the drawing(s) be held in abey	vance. See 37 CFR 1.85(a).
11) The proposed drawing correct	ion filed on is: a) 🗌 approved b) 🗌 🤅	disapproved by the Examiner.
If approved, corrected drawing	s are required in reply to this Office action.	
12) The oath or declaration is obje	cted to by the Examiner.	
Priority under 35 U.S.C. §§ 119 and 1	20	
13) Acknowledgment is made of a	a claim for foreign priority under 35 U.S.C.	§ 119(a)-(d) or (f).
a) All b) Some * c) No	ne of:	
1. Certified copies of the	priority documents have been received.	
2. Certified copies of the	priority documents have been received in A	Application No
application from the	copies of the priority documents have beer e International Bureau (PCT Rule 17.2(a)). e action for a list of the certified copies not	-
14) Acknowledgment is made of a	claim for domestic priority under 35 U.S.C.	. § 119(e) (to a provisional application).
	eign language provisional application has t claim for domestic priority under 35 U.S.C	
Attachment(s)		
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing R</li> <li>Information Disclosure Statement(s) (PTO-</li> </ol>	eview (PTO-948) 5) 🗌 Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)
S. Patent and Trademark Office TO-326 (Rev. 04-01)	Office Action Summary	Part of Paper No. 7

Application/Control Number: 09/848,583 Art Unit: 3724

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## **DETAILED ACTION**

## **Election/Restrictions**

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-10, 12 and 13, drawn to an apparatus, classified in class 83, subclass 401.
  - II. Claim 11, drawn to a process, classified in class 83, subclass 35.

2. The inventions are distinct, each from the other because of the following reasons: Inventions from group I and group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process, as claimed, can be practiced by another and materially different apparatus due to the fact that the process claims a "first and second cutting step". Claims 1 and 12 do not claim any knives just a stroke device for moving them.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

## Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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JP December 3, 2002

Alian N. Shoap Supervisory Patent Examiner Group 3700